IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

WP(C).No. 20506 of 2006(N)

PETITIONER:

SHEEBA, W/O.LATE SURESH, AGED 36 YEARS,
SIVASYLAM, THARAYILPARAMBIL,NANDIKULANGARA,
MANNAM P.O., NORTH PARAVOOR, ERNAKULAM.

BY ADV. SRI.J.S.AJITHKUMAR
SRI.S.ASWAKUMAR

RESPONDENTS:
----

1. **TAHSILDAR, TALUK OFFICE,**
   THIRUVANANTHAPURAM.

2. **DISTRICT COLLECTOR,**
   THIRUVANANTHAPURAM.

3. **RAVEENDRAN NAIR, AGED 62 ,**
   SIVAGANGA, KANNATH LANE, PANGAPPARA VILLAGE,
   KARIAVATTOM P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.D.AJITHKUMAR
BY GOVT.PELADER SRI. BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.20506/2006 N

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF CERTIFICATE OF MARRIAGE ISSUED BY THE PRESIDENT, N.S.S.KARAYOGAM, MANNAM P.O.**

EXT.P2: **COPY OF DEATH CERTIFICATE ISSUED BY THE ADMINISTRATIVE OFFICER, GARIGAPALLI VILLAGE, DHARMAPURI DIST., TAMIL NADU.**

EXT.P3: **COPY OF HEIRSHIP CERTIFICATE ISSUED BY THE 1ST RESPONDENT DTD. 29/11/2005.**

EXT.P4: **COPY OF LETTER DTD. 30/07/2005 ISSUED BY THE EXE.ENGINEER KSEB, THIRUVANANTHAPURAM.**

EXT.P5: **COPY OF LETTER DTD. 21/01/2006 ISSUED BY THE EXE.ENGINEER KSEB, THIRUVANANTHAPURAM.**

EXT.P6: **COPY OF LETTER DTD. 07/02/2006 ISSUED BY THE CHIEF ENGINEER, KSEB, THIRUVANANTHAPURAM.**

EXT.P7: **COPY OF LETTER DTD.25/04/2006 BY THE CHIEF ENGINEER, KSEB, THIRUVANANTHAPURAM.**

EXT.P8: **COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT ON 30/01/2006.**

EXT.P9: **COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**

/TRUE COPY/

Kss

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.20506 OF 2006

Dated this the 19th day of February, 2007

JUDGMENT

The petitioner is the widow and the third respondent is the father of deceased R.Suresh, who was employed with the Kerala State Electricity Board. The first respondent Tahsildar issued Ext.P3 heirship certificate showing the petitioner and the third respondent as heirs of late Suresh. This is under challenge by the widow. According to her, she is the only surviving class I heir of Suresh under the Hindu Succession Act, his mother having predeceased him. Learned counsel appearing for the third respondent contends that though the third respondent, the father of Suresh, is only a class II heir, Ext.P3 certificate cannot be found fault with because the Tahsildar was justified in including the father of the deceased also as an heir since the said person is an heir, at least a class II heir. So much so, Ext.P3 may be gospel truth. But the fact remains that priority in terms of the provisions of the Hindu Succession Act enjoins that class I heirs

will inherit in preference to class II heirs, while there would be equal distribution among class I heirs and in their absence, among the class II heirs. So much so, though the father is an heir in class II, since the petitioner, the widow, is admittedly alive, she alone will succeed to the testator of late Suresh. The right of parties to succession may be an issue for the civil courts to decide. But Ext.P3, as it stands, would only create confusion and lead to much undesired litigation.

Under such circumstances, it is hereby directed that though Ext.P3 shows the third respondent as also a heir, it shall be treated as one issued recognising the petitioner as the sole heir at law, entitled to inherit the estate of late R.Suresh in preference to the third respondent, father. With this declaration, this writ petition is disposed of.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.